

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

UNITED STATES OF AMERICA,)	
)	Case No. 2:21-cv-344
Plaintiff,)	
)	
v.)	
)	
FERGUSON MANUFACTURING)	
COMPANY, INC.,)	
)	
Defendant.)	
)	

COMPLAINT FOR FEDERAL TAXES

The United States of America, at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of Treasury, and at the direction of the Attorney General of the United States, brings this action to collect the unpaid federal employment taxes and civil penalties for failure to file informational returns, including statutory additions, owed by the Defendant Ferguson Manufacturing Company, Inc.

Jurisdiction and Venue

1. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1340, and 1345 and 26 U.S.C. §§ 7402(a).

2. Defendant Ferguson Manufacturing Company, Inc. (“Ferguson Manufacturing”), maintains a principal place of business in Suffolk, Virginia. The City of Suffolk, Virginia is located in the Eastern District of Virginia, Norfolk Division. *See Local Civil Rule 3(B)(3).* Thus, venue is proper in the Eastern District of Virginia pursuant to 28 U.S.C. §§ 1391(b) and 1396.

Parties

3. Plaintiff is the United States of America.
4. Defendant Ferguson Manufacturing is incorporated in Virginia and maintains a principal place of business in Suffolk, Virginia.

Count I: Collect Federal Employment Taxes

5. A delegate of the Secretary of the Treasury assessed federal employment taxes (Forms 941) against Ferguson Manufacturing as follows:

Assessment Type	Tax Period Ending	Date of Earliest Assessment	Amount of Earliest Assessment	Outstanding Balance (as of May 10, 2021)
FICA (Form 941)	9/30/2010	5/23/2011	\$11,832.78	\$23,172.87
FICA (Form 941)	12/31/2010	5/23/2011	\$12,819.44	\$27,474.21
FICA (Form 941)	3/31/2011	6/6/2011	\$10,665.36	\$20,036.19
Total Outstanding Balance (as of May 10, 2021)				\$70,683.27

6. Interest has been assessed and has accrued according to law on the unpaid balance of assessments set forth in Paragraph 5, above, and will continue to accrue until paid in full.

7. A delegate of the Secretary of the Treasury gave notice of the tax assessments set forth in Paragraph 5, above, to Ferguson Manufacturing and made demand for payment of those assessments.

8. Despite notice and demand for payment of the assessments set forth in Paragraph 5, above, Ferguson Manufacturing has neglected or refused to make full payment of those assessments to the United States.

9. As of May 10, 2021, with respect to the assessments described in Paragraph 5, above, Ferguson Manufacturing is indebted to the United States in the amount of \$70,683.27 for

federal employment taxes, penalties, and interest, plus statutory additions accruing after that date as provided by law.

Count II: Collect Federal Employment Taxes

10. A delegate of the Secretary of the Treasury assessed federal employment taxes (Forms 941) against Ferguson Manufacturing as follows:

Assessment Type	Tax Period Ending	Date of Earliest Assessment	Amount of Earliest Assessment	Outstanding Balance (as of May 3, 2021)
FICA (Form 941)	6/30/2011	8/6/2012	\$13,932.00	\$7,591.48
FICA (Form 941)	9/30/2011	1/2/2012	\$12,058.84	\$20,382.13
FICA (Form 941)	12/31/2011	8/6/2012	\$10,850.46	\$8,203.96
FICA (Form 941)	3/31/2012	8/6/2012	\$10,414.61	\$9,688.20
FICA (Form 941)	6/30/2012	10/1/2012	\$10,678.72	\$626.04
FICA (Form 941)	12/31/2012	10/7/2013	\$10,656.74	\$6,947.12
FICA (Form 941)	3/31/2013	9/23/2013	\$11,753.19	\$21,973.33
FICA (Form 941)	6/30/2013	9/23/2013	\$12,391.36	\$23,191.15
FICA (Form 941)	9/30/2013	12/30/2013	\$10,601.92	\$19,677.31
FICA (Form 941)	12/31/2013	10/31/2016	\$16,624.80	\$16,564.95
FICA (Form 941)	3/31/2014	6/30/2014	\$8,573.06	\$13,531.72
FICA (Form 941)	6/30/2014	9/29/2014	\$10,285.54	\$18,419.75
FICA (Form 941)	9/30/2014	10/31/2016	\$16,188.72	\$18,164.20
FICA (Form 941)	12/31/2014	10/31/2016	\$16,593.44	\$18,816.40
FICA (Form 941)	3/31/2015	10/31/2016	\$17,008.28	\$18,170.82
FICA (Form 941)	6/30/2015	10/31/2016	\$17,433.48	\$14,895.70
FICA	9/30/2015	10/31/2016	\$17,869.32	\$35,724.66

(Form 941)				
FICA (Form 941)	12/31/2015	10/31/2016	\$18,316.06	\$15,984.95
FICA (Form 941)	3/31/2016	10/31/2016	\$18,773.96	\$13,254.15
FICA (Form 941)	6/30/2016	10/31/2016	\$19,243.30	\$15,691.62
FICA (Form 941)	9/30/2016	3/13/2017	\$7,599.32	\$12,353.06
FICA (Form 941)	12/31/2016	3/20/2017	\$7,688.36	\$12,581.50
FICA (Form 941)	9/30/2018	12/31/2018	\$7,372.00	\$8,195.19
FICA (Form 941)	12/31/2018	11/11/2019	\$7,334.42	\$8,700.76
FICA (Form 941)	3/31/2019	10/28/2019	\$7,638.53	\$11,905.82
FICA (Form 941)	6/30/2019	10/14/2019	\$7,860.94	\$10,078.66
FICA (Form 941)	9/30/2019	2/15/2021	\$12,467.50	\$14,624.08
FICA (Form 941)	12/31/2019	2/15/2021	\$12,779.18	\$19,471.25
FICA (Form 941)	3/31/2020	2/15/2021	\$13,098.66	\$18,945.51
Total Outstanding Balance (as of May 3, 2021)				\$434,355.47

11. Interest has been assessed and has accrued according to law on the unpaid balance of assessments set forth in Paragraph 10, above, and will continue to accrue until paid in full.

12. A delegate of the Secretary of the Treasury gave notice of the tax assessments set forth in Paragraph 10, above, to Ferguson Manufacturing and made demand for payment of those assessments.

13. Despite notice and demand for payment of the assessments set forth in Paragraph 10, above, Ferguson Manufacturing has neglected or refused to make full payment of those assessments to the United States.

14. As of May 3, 2021, with respect to the assessments described in Paragraph 10, above, Ferguson Manufacturing is indebted to the United States in the amount of \$434,355.47 for federal employment taxes, penalties, and interest, plus statutory additions accruing after that date as provided by law.

Count III: Collect Federal Unemployment Taxes

15. A delegate of the Secretary of the Treasury assessed federal unemployment taxes (Forms 940) against Ferguson Manufacturing as follows:

Assessment Type	Tax Period Ending	Date of Earliest Assessment	Amount of Earliest Assessment	Outstanding Balance (as of May 3, 2021)
Unemployment (Form 940)	12/31/2011	8/6/2012	\$539.00	\$1,188.58
Unemployment (Form 940)	12/31/2012	9/23/2013	\$246.10	\$613.53
Unemployment (Form 940)	12/31/2013	5/1/2017	\$275.23	\$529.18
Unemployment (Form 940)	12/31/2014	5/1/2017	\$226.69	\$422.36
Unemployment (Form 940)	12/31/2015	5/1/2017	\$192.00	\$346.57
Unemployment (Form 940)	12/31/2016	4/24/2017	\$201.54	\$293.50
Unemployment (Form 940)	12/31/2018	11/18/2019	\$168.85	\$267.21
Unemployment (Form 940)	12/31/2019	3/1/2021	\$7,680.00	\$11,661.63
Total Outstanding Balance (as of May 3, 2021)				\$15,322.56

16. Interest has accrued according to law on the unpaid balance of assessments set forth in Paragraph 15, above, and will continue to accrue until paid in full.

17. A delegate of the Secretary of the Treasury gave notice of the tax assessments set forth in Paragraph 15, above, to Ferguson Manufacturing and made demand for payment of those assessments.

18. Despite notice and demand for payment of the assessments set forth in Paragraph 15, above, Ferguson Manufacturing has neglected or refused to make full payment of those assessments to the United States.

19. As of May 3, 2021, with respect to the assessments described in Paragraph 15, above, Ferguson Manufacturing is indebted to the United States in the amount of \$15,322.56 for civil penalties and interest, plus statutory additions accruing after that date as provided by law.

RELIEF REQUESTED

WHEREFORE, the United States respectfully prays this Court:

- A. Enter judgment in favor of the United States and against Ferguson Manufacturing Company, Inc., with respect to the federal employment tax assessments described in Paragraph 5, above, in the total amount of \$70,683.27 as of May 10, 2021, for federal employment taxes, penalties, and interest, plus statutory interest and other additions to tax accruing thereafter until paid in full;
- B. Enter judgment in favor of the United States and against Ferguson Manufacturing Company, Inc., with respect to the federal employment tax assessments described in Paragraph 10, above, in the total amount of \$434,355.47 as of May 3, 2021, for federal employment taxes, penalties, and interest, plus statutory interest and other additions to tax accruing thereafter until paid in full;
- C. Enter judgment in favor of the United States and against Ferguson Manufacturing Company, Inc., with respect to the federal unemployment tax assessments described in Paragraph 15, above, in the total amount of \$15,322.56 as of May 3, 2021, for federal employment taxes, penalties, and interest, plus statutory interest and other additions to tax accruing thereafter until paid in full;

- D. Award the United States costs incurred in bringing this action; and
- E. Such other and further relief as the Court deems just and proper.

Dated: June 21, 2021

Respectfully Submitted,

UNITED STATES OF AMERICA

RAJ PAREKH
ACTING UNITED STATES ATTORNEY

By: /s/ Daniel P. Shean
DANIEL P. SHEAN, Assistant U.S. Attorney
Virginia State Bar No. 84432
Counsel for the United States of America
Office of the United States Attorney
101 West Main Street, Suite 8000
Norfolk, Virginia 23510-1671
Phone: (757) 441-6331
Fax: (757) 441-6689
Email: Daniel.Shean@usdoj.gov

DAVID A. HUBBERT
Acting Assistant Attorney General

By: /s/ Ann E. Nash
ANN E. NASH, Trial Attorney*
Virginia State Bar 71311
Counsel for the United States of America
U.S. Department of Justice, Tax Division
P.O. Box 227
Washington, D.C. 20044
Phone: (202) 307-6489
Fax: (202) 514-6866
Email: Ann.E.Nash@usdoj.gov

* *Pro hac vice* application forthcoming